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Senate

(Legislative day of Monday, July 21, 2003)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Creator God, source of all blessings, fountain of all wisdom, today, let our leaders play their part in doing Your will on Earth. Lord, You know the struggles that confront us, the things we wrestle with that cause us to be anxious and unsure. You know the things we run to, the things we run from, and the things that divide us. We thank You that though You know us completely, You still love us and direct our steps. Today, if our eyes have been closed to Your graces, open them. Give us the courage and the flexibility to make a better world. We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 23, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business for an hour. Following morning business, the Senate will resume consideration of H.R. 2555, the Department of Homeland Security appropriations bill. Yesterday, we made progress, as the Senate was able to dispose of the Byrd amendment with a vote of 43 to 50 on waiving the budget. It is my understanding that this morning, at approximately 10 o'clock, Senator BOXER will be prepared to offer an amendment to the bill. Senator COCHRAN will be here, and it is my hope we can try to reach short time agreements on amendments that are offered as we go forward.

It is our desire to finish this bill today or this evening, if necessary. That would enable the Senate to consider another appropriations measure this week prior to resuming the Energy bill next week. Again, Members should notify the managers of their intention to offer amendments to the Homeland Security bill this morning. The chairman and ranking member would then be able to discuss an order of consideration of these amendments.

With the schedule announced, I will now yield myself time from my allotted time in morning business.

First, let me ask the Democratic leader, through the Chair, if he has any comments on the schedule.

I now yield myself my allotted time in morning business.

UNANIMOUS CONSENT REQUEST— S. 1019

Mr. FRIST. Mr. President, the Laci and Connor Peterson murders in California have brought before the American people a critical question that deserves a response: When a criminal attacks a woman who is pregnant, killing both her and her unborn child, has he killed one victim or two?

I believe the answer is two. Laci Peterson was not the only person killed but her unborn baby, Connor, was also murdered.

Unfortunately, there is a loophole in Federal law that does not permit prosecutors to charge suspects with killing both mother and child. Twenty-seven States have moved to close this loophole in their State laws. Indeed, California is one of those States. That is why State prosecutors have charged Scott Peterson with the deaths of his wife Laci and his son Connor.

I believe it is long past time for the Senate to close this loophole for Federal crimes. We have been working with our friends across the aisle since June 26 to reach an agreement to bring up this bill but so far we have been unsuccessful. But we are not going to give up.

Thus, I ask unanimous consent that, at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the immediate consideration of calendar item No. 89, S. 1019, the Unborn Victims of Violence Act of 2003, under the following conditions: 2 hours of debate equally divided in the usual form; further, that no amendments be in order and that all points of order be

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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waived; that upon the use or yielding back of time, the bill be read a third time and the Senate proceed to a vote on passage of the measure, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

The assistant Democratic leader.

Mr. REID. Mr. President, we are very close to a point where we could offer the leader the ability to modify his unanimous consent request. Senator FEINSTEIN, we would ask, would offer an amendment which would be a substitute. Senator MURRAY would offer one on domestic relations, and another Senator would offer one that deals with intent. We think there may be one other amendment, maybe two, that we would be able to enter into. Maybe later today, or probably tomorrow, would be the best time to again renew the request of the majority leader.

At this time we cannot agree; therefore, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. FRIST. Mr. President, we have been working on this very important issue with the other side of the aisle, and it is absolutely critical that we address the issue, we believe, as soon as possible. Therefore, I am very pleased that we are hearing what the nature of the amendments might be. This is the first time I have heard what those amendments could possibly be. I look forward, again, to working to bring this bill to the floor as soon as possible.

I am sorry that my friend from Nevada objects to bringing up this bipartisan bill now. We believe it is a critically important bill that does deserve prompt consideration.

Sharon Rocha, the mother of Laci Peterson and the grandmother of Connor Peterson, has written an eloquent letter asking that the Senate quickly pass this bill, pass this bill as soon as possible.

The House of Representatives, as my colleagues probably know, has passed this very bill twice but the bill keeps being blocked in the Senate.

I know my colleague from Ohio, who is the sponsor of the Unborn Victims of Violence Act, has been working very hard, mentioning to me almost daily the need to get this bill to the floor as soon as possible and to address this important issue.

Thus, I yield to my distinguished colleague from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my colleague.

I am sorry we are not able to bring this bill up today. I hope that what I hear from my colleague from Nevada is encouraging words and that we will be able to get an agreement shortly.

Let me say, as my colleague from Tennessee, the majority leader, has pointed out, that now in over half the States in the Union, if you commit a crime of violence against a pregnant

woman and her unborn baby dies, you can be punished for the violence against both the mother and the unborn child.

But the other side of that story is, in roughly half of the States in the Union, they do not have this law, and in the Federal Government we do not have this law. We have been trying to rectify this since 1999, which is the first time I introduced this bill.

My colleague LINDSEY GRAHAM, who is going to speak in a moment, was the leader in the House of Representatives when they passed the bill several times in the past. So, this is not something that just came up in the last few months.

Let me make a couple comments before I yield to my colleague. First, this has nothing to do with abortion. We have a very specific exception in this bill in very definite language that states it has nothing to do with abortion. You can't write it any clearer or any plainer than we have written the language.

Second, let me give an example that will show the compelling need for this bill. Even though over half of the States now have very similar legislation, consider this situation. Assume that an airman stationed at Dover Air Force Base in Delaware attacks a pregnant woman—his girlfriend, wife, someone he doesn't know. Assume his intent is to terminate her pregnancy and he savagely beats her with a specific intent to terminate that pregnancy. Assume that, in fact, that is what happens, and the child does, in fact, die. Under current Federal law, the only thing the Federal prosecutor could charge him with is the assault against the mother. The reason for that is there is no Federal law such as the one we are talking about, and Delaware does not have a law.

That is not right. That is not justice. We need to say that is not right. We need to close that loophole because everyone in this country, I believe, recognizes there is a second victim, and it is not just, it is not right that that child should not be recognized as a victim. And there is no one in this country who believes that man should walk away with the only charge against him being a simple assault.

We had a case in Ohio a few years ago that turned out differently. It was a tragic case, but at least justice was done. It was the exact same case—a man was stationed at Wright-Patterson Air Force Base, an airman, had a pregnant girlfriend. He decided that he was going to end her pregnancy. He savagely beat her, terminated her pregnancy. She aborted and lost her child. The Federal prosecutor gets the tragic case and finds out there is no Federal law that says he can charge. He looks around and says: What am I going to do? Fortunately, Ohio had just passed a law similar to this. So under the Federal assimilative law he was able to assimilate the Ohio law into the Federal code and was able to charge him with

the murder of the child. But in those States, those 23 States that do not have that, if that Air Force base had been located in any of those States, justice would not have been done.

What we are saying is, it is time for there to be justice. It is time for there to be a Federal law. This law simply recognizes what every person in this country understands that there is, in fact, a second victim.

I yield back to the majority leader.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. I thank my distinguished colleague from Ohio for his longstanding leadership on this particular issue. We all know the issue has been highlighted by the recent tragic events with the Peterson family. Again, both my distinguished colleague from Ohio, as well as another colleague I will turn to shortly, have been at this a long time. We appreciate their leadership and look forward to addressing this issue on the Senate floor when we have that opportunity.

I would now like to turn to my colleague from South Carolina, the champion of this bill when he was in the House of Representatives before coming to the Senate.

I yield to my friend from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I thank the majority leader and publicly acknowledge all the hard work on his behalf, working with my colleagues on the Democratic side. Senator FRIST has been very responsive, trying to get this bill up for a vote, and it seems we are making progress. In terms of our leadership, I could not be more pleased with the efforts he has made to fill in this gap.

The Laci Peterson case probably explains the dynamic better than I could ever explain it. However, there has been an ongoing fight to fix this problem of the Federal law for many years. Senator DEWINE has been the champion of this bill in the Senate. When I first introduced it in the House, in the 106th Congress, it passed by 254 votes to 172 with over 50 Democratic Members. A lot of pro-choice people voted for the bill because America does divide on a woman's right to choose evenly. But when you ask Americans if a woman chooses to have the child and that child is harmed while she is pregnant through criminal assault, about 80 percent of Americans, Democrats and Republicans, say together that the criminal should be prosecuted for both events, damage to the mother and the child.

There is a lot of bipartisan support for this bill. It passed in the 106th Congress in the House, 107th Congress in the House with over 250 votes, with Democrats and Republicans, pro-choice, pro-life people coming together. Senator DEWINE has been an advocate for this bill since it originated. I thank him.

The reason we need this bill is because there are more events such as this than you would want to believe where people attack pregnant women, causing them to lose their child, and in a certain class of cases where the Federal jurisdiction is the exclusive form of prosecution, there is no right under Federal law for a prosecutor to go after the harm done to the unborn child.

In the Oklahoma City bombing case there was a lady working for the DEA. She was a secretary, Carrie Lenz. On the day of the bombing, she came to work early to show her coworkers an ultrasound picture of her unborn child, Michael Lenz III. She was showing her coworkers the ultrasound picture and the building blew up, killing her and her child. In the House when we were doing hearings on this bill, the father, Michael Lenz, came to testify. He told us in very emotional, eloquent terms that that day he lost two things. He lost his son Michael James Lenz III and he lost his wife. If this law had existed, the prosecutor would have been able to prosecute Timothy McVeigh for two acts of violence, not one.

We need this bill. Unfortunately, these events do happen. And when they do happen, most Americans, a high percentage in polling, Democrats and Republicans in the House and I do believe in the Senate, would want the full weight of the law to go against defenders who attack pregnant women. I believe this bill will be signed by the President because he said he would sign it. I know it will pass the House. If we can get a vote in the Senate, it will pass the Senate with a strong bipartisan vote.

I thank Senator FRIST for pushing this measure, and I hope we can accommodate our friends on the Democratic side to get a vote on this bill so that we can do something that will be very positive in this Congress, and that is make sure the people who attack pregnant women get whacked as hard as we can whack them.

Mr. FRIST. Mr. President, in closing, I look forward to working with the Democratic leadership in terms of bringing this to the floor of the Senate as soon as possible. It really does boil down to the fundamental question of when a criminal attacks a pregnant woman, killing both the woman and her unborn child, has there been one or two victims? That is what this legislation addresses in a very direct fashion.

Mr. President, I ask that my following remarks be taken from leader time.

The ACTING PRESIDENT pro tempore. The leader has that right.

A REMARKABLE NEWS DAY

Mr. FRIST. Mr. President, yesterday was a remarkable day in many, many ways. Private First Class Lynch returned to her home after so many weeks and months away. She is a true American hero. We had Ambassador Jerry Bremer brief 65 Senators yester-

day on the real progress being made in Iraq and on the reconstruction and reconstitution that is going on there.

Then we had the news that began late in the morning, and was confirmed in the afternoon, that Saddam's two sons, Uday and Qusay, have been eliminated as threats to Iraqi freedom.

It was truly a remarkable day. We are driven by headlines so much. They influence us in such a direct way. As we looked at these three sequences of events, you could not help but feel pride and optimism as we move forward in this fight for freedom around the world.

We do greet the news yesterday, with the elimination of Saddam's two sons, with pride and with respect—respect for our troops, for our military men and women who have devoted their lives and demonstrated an unmatched professionalism and maturity. It is clear—we have no doubt—that we have waged a just war, that the bloody tyrant Saddam Hussein has been defeated; that Iraq is better without Saddam and his diabolical offspring terrorizing and murdering the Iraqi people; and indeed America is better off without Saddam Hussein and his murderous cabal that had been in power, which clearly sat back and had plans and carried out terror and domination and mass murder.

It is a tough road. In talking to Ambassador Bremer, it is clear that our reconstruction and capturing what we know this is all about, which is in the words "Operation Iraqi Freedom"—it is freedom that we have fought for and that we continue to fight for. This will continue to take time and patience. It will continue to take resources from this body. But for the first time in 30 years, the Iraqi people are free to live without fear and without tyranny. They are participating for the first time in 30 years in the planning and the future of their own government.

Indeed our hearts go out to the families who have lost loved ones on the battlefield and who continue to lose them in this effort. Each day it seems we are greeted with another distressing story of a Baathist attack. We are entitled to feel this grief and, indeed, this frustration. But in honor and respect for the individuals who have given their lives, and who continue to give their lives to protect our freedom, we must remain resolute. We must keep pressing forward. We cannot let that headline of the day dictate our overall policy.

Our President and our troops are out protecting the security of our Nation, and we are leading at the same time another nation in a systematically planned, strategic, organized way to freedom. In so doing, we are making ourselves and future generations more secure.

We will succeed. It will take patience. It will take determination. It will take resolve. It takes all of that to bring our enemies to justice. It takes all of that to free the Iraqi people. It

takes all of that to help protect the American people.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business until the hour of 10 a.m., with the first 15 minutes under the control of the majority leader or his designee, the next 15 minutes under the control of the Senator from Texas, Mrs. HUTCHISON or her designee, and the final 30 minutes under the control of the minority leader or his designee.

The Senator from Minnesota is recognized.

DISSENT IN AMERICA

Mr. COLEMAN. Mr. President, as the majority leader noted, yesterday was a remarkable day. I had a chance to listen to Ambassador Bremer. As a former mayor, I understand how difficult it is to have cities function—electricity, water, and other challenges, kind of the basics. I marvel at the challenge that Ambassador Bremer is facing.

The good news is that we are making tremendous progress in Iraq. Yesterday was a good day because two of Saddam's diabolical offspring, as the majority leader said, are dead. It is kind of strange to say that the death of any individual is a great thing. But here we are talking about the most brutish, thuggish, reprehensible individuals who terrorized those with whom they came into contact. There were celebrations in the streets of Baghdad yesterday with news of the death of Saddam's sons.

So in this time of good news, yet at the same time that American lives are being lost, that the path to liberation of Iraq and ultimately freedom and democracy and greater stability in that region is a difficult one, I think it is important to come to the floor of the Senate to reaffirm the justice and purpose of American and coalition efforts in Iraq. My only regret is that it is necessary to do so.

We have a great tradition of dissent in America, and we need people to ask the tough questions. But just because we value dissent doesn't make that dissent right or just. At a time when lives are being risked and lost, when America and her friends are trying to do something which is both very difficult and supremely important, this is a moment where unity should be at a premium.

Yet out on the campaign trail we are observing a mixture of Monday morning quarterbacking, political opportunism, and media exaggeration which